**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**W.P. NO. 1082 (MS) OF 2004**

Mrs. Sabiran and Others .....Petitioners.

Versus

Addl. Civil Judge (J.D.) Dehardun and another.
.....Respondents.

**Hon'ble Rajesh Tandon, J.**

Heard Sri Salendra Singh Chauhan, counsel for the petitioners and Standing counsel for respondents.

By the present writ petition, the petitioner has prayed for quashing of the order dated 27th September, 2004 by which the application under Order 7 Rule 11 of C.P.C. has been rejected.

Briefly stated, a suit was filed by the plaintiff/respondent praying for the decree for permanent injunction not to interfere in the peaceful possession of the plaintiff/respondent in respect of land Khata No. 104. On 12th July, 1999, the respondents no. 2 to 5 has moved an application before the Consolidation authority. The petitioner/defendant has moved an application under Order 7 Rule 11 before the court of Civil Judge (J.D.), Dehardun stating that the respondents no. 2 to 5 cannot initiate the proceedings inasmuch as the proceedings are barred under Section 331 of U.P. Zamindari Abolition and Land Reforms Act and entries cannot be corrected by the Civil Court. The said

application has been rejected and as such the present application has been filed.

I am not inclined to interfere under Article 226 of the Constitution of India as the order in question being inter loctuary one, it will be open for the learned Civil Judge to frame an issue with regard to the maintainability of the suit while deciding the suit itself.

Subject to the aforesaid observation, writ petition is disposed of.

(RAJESH TANDON, J.)

04.11.2004
P.S.R.